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November 11, 2004

Federal Election Commission  
Office of the General Counsel  
999 E Street, N.W.  
Washington, DC 20463

Fax and First Class Mail: 202-219-3923

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

2004 NOV 17 A 10:07

Attn: Mr. Jeff S. Jordan

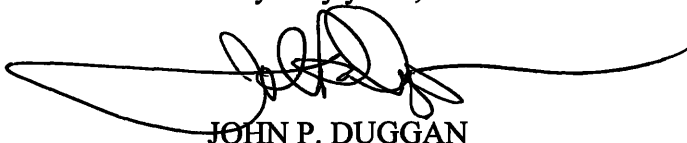
**Re: Federal Election Complaint MUR No. 5568**  
***IRMO Complaint of Citizens for Responsibility and Ethics in Washington v. Alan Keyes et. al.***

Dear Mr. Jordan:

Please find enclosed the answer of Jack Roeser to the complaint of the Citizens for Responsibility and Ethics in Washington in connection with the above matter, along with the Statement of Designation of Counsel which we ask you to file with the Commission.

We would be happy to meet confer with you or a designated representative of the Office of General Counsel to submit additional information or documentation in connection with this matter.

Very truly yours,



JOHN P. DUGGAN

cc: Citizens for Responsibility and Ethics in Washington  
2<sup>nd</sup> Floor  
11 DuPont Circle, N.W.  
Washington, D.C. 20036

JPD: jg

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**FEDERAL ELECTION COMMISSION**

IN RE THE MATTER OF: Alan L. Keyes  
Jack Roeser  
Empower Illinois  
Empower Illinois Media Fund  
Jeffrey D. Davis, President

**MUR NO: 5568**

**ANSWER TO THE COMPLAINT**

NOW COMES, Jack Roeser, by and through his attorney, John P. Duggan, Duggan Law Offices, who in answer to the complaint of the Citizens for Responsibility and Ethics in Washington hereby states as follows:

1. Jack Roeser denies the allegations in Paragraph 1, specifically he denies that he is or has engaged in any violation of the Federal Campaign Finance Law any kind, and he states that the complaint of the Citizens for Responsibility and Ethics in Washington is wholly false; moreover, Jack Roeser alleges that this complaint is brought in bad faith, with no basis in law or fact, and is for the purpose of inhibiting Jack Roeser in the exercise of his First Amendment rights.

2. Jack Roeser denies the allegations in Paragraph 2; he states that the Citizens for Responsibility and Ethics in Washington is a partisan Democratic organization which has as its purpose the inhibition of the advocacy of policies and positions that it does not agree with, as could be demonstrated by review of its web site, it has only brought complaints against conservative supporters.

3. Jack Roeser agrees that Alan Keyes was a Republican candidate for the United States Senate in Illinois. He denies the remaining allegations in Paragraph 3.

4. It is Jack Roeser's information and belief that Empower Illinois and Empower Illinois Media Funds are organized under Section 527 of the Internal Revenue Code. It is Jack

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Roeser's information and belief that Empower Illinois and Empower Illinois Media Fund are different organizations and it is inappropriate to refer to them collectively. Jack Roeser denies the remaining allegations in Paragraph 4 and he states affirmatively that it is his information and belief that neither of these organizations were organized or operated for the purpose of influencing the 2004 Senate Election in Illinois but that they were organized for the purpose of educating the public on issues of public importance.

5. Jack Roeser admits, to his information and belief, that Jeff Davis is an officer of both Empower Illinois and the Empower Illinois Media Fund; it is his information and belief that Jeff Davis consulted or worked in various capacities for the Jack Ryan campaign prior to organizing Empower Illinois and the Empower Illinois Media Fund. Jack Roeser denies the remaining allegations in Paragraph 5.

6. Jack Roeser is the chairman and founder of Otto Engineering, Inc., an Illinois Corporation in the business of manufacturing. This is wholly irrelevant to the allegations herein. He admits that he hosted a fundraiser for Alan Keyes and he denies the remaining allegations of Paragraph 6.

7. Jack Roeser denies the allegations in Paragraph 7. Specifically he denies that Empower Illinois or Empower Illinois Media Fund have committed or are about to commit violations of the Federal Election Laws. Jack Roeser specifically denies that he participated directly or indirectly in any prohibited conduct.

8. Jack Roeser denies the allegations in Paragraph 8. Jack Roeser agrees that he supported the candidacy of Alan Keyes for Senate in Illinois in lawful ways. He additionally agrees that he met Alan Keyes solely for the purpose of discussing Alan Keyes' proposal that slavery

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reparations should be handled through Federal Income Tax Credits. This meeting occurred in Chicago, Illinois and was attended by Alan Keyes and his campaign manager, Bill Pascoe, Jack Roeser, John Biver, and Joe Wiegand. Bill Pascoe stated and established at the start of that meeting that no financing would be discussed and that the sole purpose of the meeting was to discuss Mr. Keyes' position on slavery reparation. No campaign financing of any kind was discussed at this meeting. Jack Roeser states that the newspaper articles referred to throughout the complaint of the Citizens for Responsibility and Ethics in Washington and appended to it are irrelevant to the issues of the complaint. Jack Roeser has been active in the issue advocacy of taxation limits, school choice, the right to life, and second amendment rights for over thirty years. Jack Roeser's activities have primarily related to the advocacy of these issues to state government. As James Madison stated in Federalist No 45. "The powers delegated by the proposed constitution to the Federal Government are few and defined. Those which are to remain in the State Government are numerous and indefinite."

Jack Roeser denies that Alan Keyes changed his position on reparations as a result of that discussion. Jack Roeser points out, moreover, that the statement by the Citizens for Responsibility and Ethics in Washington in this allegation, "After this meeting, Mr. Keyes' support of reparations became somewhat more nuanced. " is styled in the argot of the Democratic Party and its spinmeisters – i.e. 'the nuanced arguments of John Kerry' on why his various and conflicting positions on every sort of issue are not flip-flops. The Citizens for Responsibility and Ethics in Washington are not interested in accountability in public officials but are advocating positions of the Democratic Party and are attempting to inhibit Jack Roeser's First Amendment right to express and advocate principals and issues

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9. Jack Roeser denies the allegations in Paragraph 9. On or about August 23, 2004, Jack Roeser, by his personal check no. 1109, gave \$30,000 to the Empower Illinois Media Fund and by his personal check no. 1110 that same day gave \$10,000 to Empower Illinois. The purpose of these donations were to support public education and advocacy of issues that Jack Roeser believes in. He has known Jeff Davis, the organizer of Empower Illinois and Empower Illinois Media Fund for over ten years and has observed his work on behalf of candidates, organizations and issues. Jack Roeser was contemplating organizing an issue advocacy 527 when he was contacted by Jeff Davis who indicated he was initiating a similar project. Jack Roeser believes that one of the most effective ways to conduct issue advocacy is to undertake it at the time of a campaign, because the issues that Jack Roeser is advocating can receive greater attention and public interest. He met with Jeff Davis on August 23, 2004 and Jeff Davis represented to Jack Roeser that he was organizing a 527 to analyze and educate the public on matters of public interest, that Jeff Davis was fully familiar with the limitations and requirements of Section 527 of the Internal Revenue Code, and that the issue advocacy of Empower Illinois and the Empower Illinois Media Fund would be fully compliant with the provisions of the Code and the Federal Election Laws. The issues that Jeff Davis intended to advocate were common to the issues for which Jack Roeser was planning to organize a 527. Accordingly, Jack Roeser agreed to support the Empower Illinois and Empower Illinois Media Fund rather than organize a separate 527. Jack Roeser made no further contributions to Empower Illinois or to Empower Illinois Media Fund after August 23, 2004. At no time did Jack Roeser participate in control or oversight of or coordination of the activities of Empower Illinois or the Empower Illinois Media Fund, or in any way directly or indirectly coordinate its activities with the Alan Keyes campaign, and it is Jack Roeser's information and belief that neither the activities of Empower

Illinois nor those of the Empower Illinois Media Fund were in any way, directly or indirectly, coordinate with or controlled by the Alan Keyes campaign.

10. Jack Roeser denies the allegations in Paragraph 10. Jack Roeser states affirmatively that it was represented to him by Jeff Davis when his donations were solicited that none of the activities of Empower Illinois or the Empower Illinois Media Fund were to be for the purpose of influencing the selection, nomination, election, or appointment of any candidate for federal office, and that all activities of Empower Illinois or the Empower Illinois Media Fund were to be issue advocating. It is Jack Roeser's information and belief that none of the activities of Empower Illinois or the Empower Illinois Media Fund were for the purpose of influencing the selection, nomination, election, or appointment of any candidate for federal office, and that all such activities were issue advocating.

11. Jack Roeser denies the allegations in Paragraph 11. Jack Roeser states affirmatively that it was represented to him by Jeff Davis when his donation was solicited that none of the activities of Empower Illinois or the Empower Illinois Media Fund were to be for the purpose of influencing the selection, nomination, election, or appointment of any candidate for federal office, and that all activities of Empower Illinois or the Empower Illinois Media Fund were to be issue advocating, and it is Jack Roeser's information and belief that none of the activities of Empower Illinois or the Empower Illinois Media Fund were for the purpose of influencing the selection, nomination, election, or appointment of any candidate for federal office, and that all activities were issue advocating.

12. Jack Roeser states that it is his information and belief that Empower Illinois Media Fund and Empower Illinois accomplished all registrations required of them by law based on the

intended activities, purpose and nature of the organizations. Jack Roeser denies the remaining allegations of Paragraph 12.

13. Jack Roeser denies that Empower Illinois or Empower Illinois Media Fund are subject to the obligations and restrictions applicable to groups whose primary objectives are to influence federal political campaigns, and it is Jack Roeser's information and belief that neither Empower Illinois nor Empower Illinois Media Fund were organized to influence federal political campaigns or had as any of their intended activities the influence of federal political campaigns. Jack Roeser denies that either Empower Illinois Media Fund or Empower Illinois had as their major purpose the benefit of a particular candidate or candidates. It was represented to Jack Roeser by Jeff Davis at the time of his donations that the activities of Empower Illinois and Empower Illinois Media Fund were limited to issue advocacy and it is Jack Roeser's information and belief that the activities of Empower Illinois and Empower Illinois Media Fund were so limited. Specifically, it is Jack Roeser's information and belief that the activities of Empower Illinois and Empower Illinois Media Fund were restricted to issue advocacy and did not involve influencing the election contest between Alan Keyes and Barak Obama. Jack Roeser had specific assurances, which to his information and belief were faithfully followed by Empower Illinois and Empower Illinois Media Fund, that none of the activities of Empower Illinois or the Empower Illinois Media Fund would involve advocating the election or defeat of any candidate, *Buckley v. Valeo*, 424 US 1, 96 S Ct. 612 (1976). It is Mr. Roeser's information and belief that none of the issue advocacy of Empower Illinois or Empower Illinois Media Fund even contained language that directly exhorted the public to vote, *Federal Election Commission v. Christian Action Network*, 894 F. Supp 946 (W.D Va 1996) aff'd 92 F.3d 1178 (4<sup>th</sup> Cir. 1996), 11C F.R. Section 100.22(b). Jack Roeser had no participation in or control of

the activities of Empower Illinois or Empower Illinois Media Fund.

14. The allegations of Paragraph 14 are wholly irrelevant to the issue in the complaint, as Jeff Davis represented to Jack Roeser when Jack Roeser's contributions were solicited that none of the activities of Empower Illinois or the Empower Illinois Media Fund were to involve advocating the election of defeat of any candidate, but were to be restricted to issue advocacy, and it is Jack Roeser's information and belief that none of the activities of Empower Illinois and the Empower Illinois Media Fund involved advocating the election of defeat of any candidate, but were restricted to issue advocacy.

15. Jack Roeser denies the allegations of Paragraph 15. These allegations are wholly illogical and irrelevant Jeff Davis represented to Jack Roeser when Jack Roeser's contributions were solicited that none of the activities of Empower Illinois or the Empower Illinois Media Fund were to involve advocating the election of defeat of any candidate, but were to be restricted to issue advocacy, and it is Jack Roeser's information and belief that none of the activities of Empower Illinois and the Empower Illinois Media Fund involved advocating the election of defeat of any candidate, but were to be restricted to issue advocacy.

16 Jack Roeser denies the allegations of Paragraph 16. Jeff Davis represented to Jack Roeser when Jack Roeser's contributions were solicited that none of the activities of Empower Illinois or the Empower Illinois Media Fund were to involve advocating the election of defeat of any candidate, but were to be restricted to issue advocacy, and it is Jack Roeser's information and belief that none of the activities of Empower Illinois and the Empower Illinois Media Fund involved advocating the election of defeat of any candidate, but were to be restricted to issue advocacy

17. Jack Roeser denies the allegations of Paragraph 17. There are no competent



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allegations in the complaint and no facts that would support the conclusion that either Empower Illinois or Empower Illinois Media Fund were organized for the purpose of expressly advocating the election or defeat of any candidate, or that either of those organizations engaged in any such activity. Moreover, there are no competent allegations in the complaint and no facts that would support the conclusion that Jack Roeser made his contributions believing that Empower Illinois or Empower Illinois Media Fund were organized for the purpose of expressly advocating the election or defeat of any candidate, or that it would engaged in any such activity; Jeff Davis represented to Jack Roeser when Jack Roeser's contributions were solicited that none of the activities of Empower Illinois or the Empower Illinois Media Fund were to involve advocating the election of or defeat of any candidate, but were to be restricted to issue advocacy, and it is Jack Roeser's information and belief that none of the activities of Empower Illinois and the Empower Illinois Media Fund involved advocating the election or defeat of any candidate, but were to be restricted to issue advocacy.

18. Jack Roeser denies the allegations of Paragraph 18. At no time did Jack Roeser ever directly or indirectly coordinate, supervise, control or influence the activities of Empower Illinois or the Empower Illinois Media Fund.

19. Jack Roeser denies the allegations of Paragraph 19. There are no competent allegations in the complaint and no facts that would support the conclusion that either Empower Illinois or Empower Illinois Media Fund were organized for the purpose of expressly advocating the election or defeat of any candidate, or that it engaged in any such activity. Moreover, there are no competent allegations in the complaint and no facts that would support the conclusion that Jack Roeser made his contributions believing that Empower Illinois or Empower Illinois Media Fund were organized for the purpose of expressly advocating the election or defeat of any candidate, or

that it would engaged in any such activity; Jeff Davis represented to Jack Roeser when Jack Roeser's contributions were solicited that none of the activities of Empower Illinois or the Empower Illinois Media Fund were to involve advocating the election or defeat of any candidate, but were to be restricted to issue advocacy, and it is Jack Roeser's information and belief that none of the activities of Empower Illinois and the Empower Illinois Media Fund involved advocating the election or defeat of any candidate, but were to be restricted to issue advocacy.

20. Jack Roeser denies the allegations of Paragraph 20. It is Jack Roeser's information and belief that there was no communication concerning the issue advocacy of Empower Illinois or the Empower Illinois Media Fund and the Alan Keyes campaign. Moreover, there are no competent allegations in the complaint and no facts that would support the conclusion that either Empower Illinois or Empower Illinois Media Fund were organized for the purpose of expressly advocating the election or defeat of any candidate, or that it engaged in any such activity. Moreover, there are no competent allegations in the complaint and no facts that would support the conclusion that Jack Roeser made his contributions believing that Empower Illinois or Empower Illinois Media Fund were organized for the purpose of expressly advocating the election or defeat of any candidate, or that it would engaged in any such activity; Jeff Davis represented to Jack Roeser when Jack Roeser's contributions were solicited that none of the activities of Empower Illinois or the Empower Illinois Media Fund were to involve advocating the election or defeat of any candidate, but were to be restricted to issue advocacy, and it is Jack Roeser's information and belief that none of the activities of Empower Illinois and the Empower Illinois Media Fund involved advocating the election or defeat of any candidate, but were to be restricted to issue advocacy.

21. Jack Roeser denies the allegations of Paragraph 21. It is Jack Roeser's information

and belief that the Alan Keyes campaign was not involved directly or indirectly in the activities of Empower Illinois or the Empower Illinois Media Fund.

22. Jack Roeser denies the allegations of Paragraph 22. It is Jack Roeser's information and belief that the Alan Keyes campaign was not involved directly or indirectly in the activities of Empower Illinois or the Empower Illinois Media Fund, and at no time did the Alan Keyes campaign coordinate, direct, influence or control the activities of Empower Illinois or the Empower Illinois Media Fund.

23. Jack Roeser denies the allegations of Paragraph 23. It is Jack Roeser's information and belief that the Alan Keyes campaign was not involved directly or indirectly in the activities of Empower Illinois or the Empower Illinois Media Fund, and at no time did the Alan Keyes campaign coordinate, direct, influence or control the activities of Empower Illinois or the Empower Illinois Media Fund.

24. Jack Roeser denies the allegations of Paragraph 24. On its face, the allegations of the text of the purported issue advocacy contains no express advocacy of the election or defeat of a candidate for federal office and contains no call to action asking the listener to take any conduct that would lead to the election or defeat of a candidate. This allegation demonstrates that there are no material facts to support the Complaint, and that it should be dismissed as wholly failing to state a cause of action. Moreover, Jack Roeser had no participation in the direction or control of the activities of Empower Illinois or the Empower Illinois Media Fund, and at no time did he directly or indirectly coordinate, direct, influence or control its activities with the Alan Keyes campaign.

25. Jack Roeser denies the allegations of Paragraph 25, except that he states it is his information and belief that Jeff Davis had been employed by Jack Ryan's campaign, which in Jack

Roeser's information and belief was abandoned when Jack Ryan withdrew from the race. It is Jack Roeser's information and belief that Jeff Davis organized Empower Illinois and the Empower Illinois Media Fund subsequent to the termination of the Jack Ryan campaign and that there is no relationship between any of the activities alleged in Paragraph 25 and the Alan Keyes' campaign.

26. Jack Roeser denies the allegations of Paragraph 26.

27. Jack Roeser denies the allegations of Paragraph 27. The Federal Election Commission will note that this paragraph is based neither on personal knowledge or information and belief. It is wholly incompetent and can be seen as nothing but speculation and defamation against Jack Roeser.

28. Jack Roeser denies the allegations of Paragraph 28

29. Jack Roeser denies the allegations of Paragraph 29.

30. Jack Roeser denies the allegations of Paragraph 30.

#### **AFFIRMATIVE DEFENSE ONE**

The allegations of the Complaint do not constitute a clear and concise statement of facts and wholly fail to differentiate between allegations based on personal knowledge and those based on information and belief. The Complaint fails to state a cause of action.

#### **AFFIRMATIVE DEFENSE TWO**

At no time did Jack Roeser participate in oversight or control of or coordination of the activities of Empower Illinois or the Empower Illinois Media Fund, or in any way directly or indirectly coordinate its activities with the Alan Keyes campaign

#### **AFFIRMATIVE DEFENSE THREE**

Neither Empower Illinois nor the Empower Illinois Media Fund were organized or operated for the

purpose of influencing the 2004 Senate Election in Illinois, but they were organized for the purpose of educating the public on issues of public importance.

#### **AFFIRMATIVE DEFENSE FOUR**

The Citizens for Responsibility and Ethics in Washington is not interested in accountability in public officials but is advocating positions of the Democratic Party and is attempting to inhibit Jack Roeser's First Amendment right to express and advocate principals and issues. Its web site shows that it has only filed complaints against conservative issue advocates or groups.

#### **AFFIRMATIVE DEFENSE FIVE**

Neither Empower Illinois nor Empower Illinois Media Fund have committed or are about to commit a violation of the Federal Election Laws

#### **AFFIRMATIVE DEFENSE SIX**

At no time did Jack Roeser participate in control or oversight of or coordination of the activities of Empower Illinois or the Empower Illinois Media Fund, or in any way directly or indirectly coordinate its activities with the Alan Keyes campaign, and it is his information and belief that neither the activities of Empower Illinois nor those of the Empower Illinois Media Fund were in any way, directly or indirectly, coordinate with or controlled by the Alan Keyes campaign.

#### **AFFIRMATIVE DEFENSE SEVEN**

Jack Roeser states affirmatively that it was represented to him by Jeff Davis when his donations to Empower Illinois and the Empower Illinois Media Fund were solicited that none of the activities of Empower Illinois or the Empower Illinois Media Fund were to be for the purpose of influencing the selection, nomination, election, or appointment of any candidate for federal office, and that all activities were to be issue advocating. It is Jack Roeser's information and belief that none of the

activities of Empower Illinois or the Empower Illinois Media Fund were for the purpose of influencing the selection, nomination, election, or appointment of any candidate for federal office, and that all such activities were issue advocating.

#### **AFFIRMATIVE DEFENSE EIGHT**

It is Jack Roeser's information and belief that the Alan Keyes campaign was not involved directly or indirectly in the activities of Empower Illinois or the Empower Illinois Media Fund, and at no time did the Alan Keyes campaign coordinate, direct, influence or control the activities of Empower Illinois or the Empower Illinois Media Fund.

#### **AFFIRMATIVE DEFENSE NINE**

On its face, the allegations of the text of the purported issue advocacy contain no express advocacy of the election or defeat of a candidate for federal office and contain no call to action asking the listener to take any conduct that would lead to the election or defeat of a candidate

WHEREFORE, Jack Roeser prays that the Federal Election Commission dismiss the complaint of Citizens for Responsibility and Ethics in Washington, that it find that the Citizens for Responsibility and Ethics in Washington complaint herein is wholly unsupported by facts or law, that the Commission find that the complaint by Citizens for Responsibility and Ethics in Washington is in bad faith for the malicious purpose of chilling and inhibiting Jack Roeser's First Amendment Rights, that the Commission award to Jack Roeser from Citizens for Responsibility and Ethics in Washington and Melanie Sloan, jointly and severally, Jack Roeser's costs and expenses in presenting this response and for such further or additional relief and actions as may be equitable and just.

  
JACK ROESER

**VERIFICATION**

Jack Roeser, being first duly sworn upon oath, states that he has read the above and foregoing Answer to the Complaint of the Citizens for Responsibility and Ethics in Washington and that his response is true and accurate to his knowledge, information and belief.

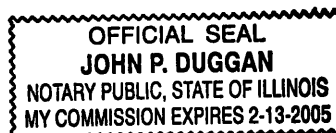
  
JACK ROESER

Subscribed and Sworn to before me  
this 10 day of November, 2004

  
Notary Public



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FEDERAL ELECTION COMMISSION  
999 E Street, NW  
Washington, DC 20463

**Statement of Designation of Counsel  
(Respondent/Witness)**

Name of Counsel: JOHN DUGGAN

Firm: DUGGAN LAW OFFICES

181 S. LINCOLNWAY  
NORTH AURORA, IL 60542

Telephone: (630) 264 7893 cell 630-222-2223

Fax: (630) 264-1310

The above named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

11/5/04  
Date

[Signature]  
Signature

Name (Print): JACK ROESSER

Address: \_\_\_\_\_

CARPENTERSVILLE, IL 60110

Telephone: Home (\_\_\_\_)

Business (847) 428-0212

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

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